

FILED

APR 16 2012

KATHY MARTIN
WALLA WALLA COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF WALLA WALLA

ALLAN PARMELEE,)
)
Plaintiff,) No. 11-2-00432-6
)
vs.) DECISION AND ORDER ON
) DEFENDANTS' MOTION
STEVE SINCLAIR, et al.,) FOR SUMMARY JUDGMENT AND
) ON PLAINTIFFS' MOTION TO
Defendants.) COMPEL DISCOVERY

The Plaintiff's Motion to Compel Discovery was before the court for consideration on its regular law and motion docket on March 19, 2012, at which time the Court continued the matter to April 2, 2012, so that it could be considered at the same time as the Defendants' Motion for Summary Judgment. On April 16, 2012, the Court took both matters under advisement without oral argument.

The Plaintiff's complaint enumerated several causes of action. Claims for free speech infringement, harassment, supervisory liability and negligence, and agency liability were previously dismissed on the Defendants' motion. This left remaining the Plaintiff's claim on Count I, alleging that the Defendants violated the Plaintiff's right of access to the courts (see Decision and Order filed June 30, 2011).

The Court has now carefully reviewed all of the declarations submitted by both sides, and is satisfied that the Motion for Summary Judgment should be grant for the

reasons stated in the Defendant's brief. There are no genuine issues of material fact, and the Defendants are entitled to judgment of dismissal as a matter of law.

The Court also considered whether the discovery sought by the Plaintiff would be helpful to the trier of fact, and whether the depositions and discovery sought might lead to the discovery of admissible evidence. CR 26 (a)(1); CR 56 (f). The Court concludes that the discovery would essentially be a fishing expedition into facts and issues that are collateral if not wholly irrelevant.

While the Court was concerned about the broad nature of the allegations, there is a remarkable lack of specificity in the Complaint as well as in the other documents submitted by the Plaintiff. While Mr. Parmelee's voluminous filings, attachments and exhibits appear to address matters and problem of grave proportions regarding his treatment as an inmate at the Washington State Penitentiary in Walla Walla, on closer examination he has not shown any substantial infringement of his rights that has led to any prejudice in any of his cases nor to any damages.

Indeed, Mr. Parmelee's access to the courts of this state—and to this superior court in particular—has been extensive and to this date has been unfettered. He refers to his many cases at length in the pleadings, declarations and briefs that he filed in this case. Some of his legal argument have been found to have merit, as shown by the Supreme Court decision in Burt v. Department of Corrections, 168 Wn.2d 828, 231 P.3d 191 (2010), and the corollary Court of Appeals decision in Abbott v. Department of Corrections, 161 Wn. App. 1015, 2011 WL 1631722 (Wash. App. Div. 3) (2011), each of which originated in Walla Walla County Superior Court. Since this case was filed May 9, 2011, Mr. Parmelee has filed four additional cases, each naming essentially the same

large group of Washington Department of Corrections administrative and supervisory personnel and corrections officers. This Court takes judicial notice of these additional cases. ER 201. The four new cases largely repeat the broad themes and claims as made in the case at issue herein, with some factual variations. In Parmelee v Brewer et al., Walla Walla County Superior Court Cause No. 11-2-00651-5, filed July 28, 2011, Mr. Parmelee alleges retaliation for assertion of his rights, cruel and unusual punishment, emotional distress, defamation, negligence and due process violations in his various administrative grievances. In Parmelee v. Holbrook et al., Walla Walla County Superior Court Cause No. 11-2-00900-0, filed November 4, 2011, he alleges retaliation for asserting first amendment rights, violation of the rights because he received some unsolicited religious materials, due process violations regarding his legal materials and restrictions thereon, and application of institution policies that allegedly infringe on his First Amendment and due process rights. In Parmelee v. Meyers et al., Walla Walla County Superior Court Cause No. 12-2-00027-2, filed January 23, 2012, he alleges retaliation for the pursuit of First Amendment rights, libel and slander, harassment, conversion of his property (a typewriter) without due process, fraud, and negligence. In Parmelee v. Robinson et al., Walla County Superior Court Cause No. 12-2-00225-9, filed March 21, 2012, he alleges “widespread First Amendment-type violations”, libel-slander, threats, denial of safe and adequate food, and denial of medical care. While each of Mr. Parmelee’s cases is entitled to assessment and determination based on the merits of the facts asserted in each case respectively (see GR 2.6(A)), the sheer volume of cases and filings belies the Plaintiff’s claim that he has been denied access to the courts of this state.

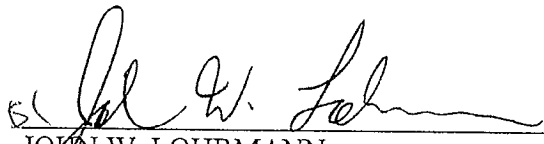
In each of these cases the court has accommodated Mr. Parmelee's pro se status by allowing hand-written pleadings that do not comply with the rules that govern form and style. His lengthy complaint is far from being "...a short and plain statement of the claim showing that the pleader is entitled to relief. . ." CR 8(a); on the contrary, it contains materials and recitations that are "redundant, immaterial, impertinent, or scandalous," including accounts of his own history and accomplishments, prior lawsuits and rulings, and descriptions and attached documentation as to how he has been wronged in various ways not necessarily relevant to the claims being litigated. CR 12(f). He has been allowed to accomplish service of process in a manner arguably inconsistent with the technical requirements of the law so that the court could reach the merits of his claims. And his affidavits of prejudice filed in each case have been honored, although each contains allegations against the disqualified judge that are personally offensive and unnecessary. Each thus violates CR 11 and is subject to being stricken under CR 12(f).

As the Court of Appeals noted in DeLong et al. v Parmelee, 157 Wn. App. 119, 144-145, 236 P.3d 936 (2010), while inmates retain their right of access to the courts, that right is limited. "[A]n inmate's ability to access the courts 'does not guarantee inmates the wherewithal to transform themselves into litigating engines. . .,'" Id. at 144, footnote 17, citing Lewis v. Casey, 518 U.S. 343, 355, 116 S. Ct. 2174, 135 L. Ed. 606 (1996). Compare King County Department of Adult and Juvenile Detention v. Parmelee, 162 Wn. App. 337, 342, 254 P.3d 927 (2011) ("Parmelee has a long history of harassing and threatening government employees. . . . His tactics include. . . filing administrative grievances and lawsuits.").

Based upon the foregoing discussion, the Court rules as follows:

1. The Defendants' Motion for Summary Judgment of Dismissal is granted.
2. The Plaintiff's Motion to Compel Discovery is denied.
3. The Complaint of the Plaintiff is dismissed with prejudice.
4. This action is deemed to be "frivolous and malicious" within the meaning and purposes of RCW 4.24.430.

So ORDERED this 16th day of April, 2012.



JOHN W. LOHRMANN
SUPERIOR COURT JUDGE